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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185
	)	
Administration of the North American Numbering Plan	)	CC Docket No. 92-237

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COMMENTS ON PETITIONS FOR RECONSIDERATION

Sprint Corporation, on behalf of Sprint Communications Company, L.P. and the Sprint local telephone companies, hereby respectfully submits its comments on petitions for reconsideration of the Commission's *Second Report and Order and Memorandum Opinion and Order* released August 8, 1996 (FCC 96-333) in the above-captioned proceedings.

The dialing parity and number administration requirements contained in the *Second Report and Order* represent a careful balance between the needs of new competitors in the local exchange and intraLATA toll markets, and those of incumbent carriers. As discussed below, many of the changes sought by petitioners -- particularly those affecting the availability of dialing parity, the definition of "nondiscriminatory access," and the allocation of number administration costs -- will upset this balance or are simply a rehash of previously made and already rejected arguments, and should therefore not be adopted. On the other hand,

Sprint believes that competition will be enhanced if the Commission's rules associated with implementation of overlay plans were amended to require that overlay plans be allowed only where permanent local number portability has been implemented. Sprint also supports petitioners' request for clarification regarding dialing parity requirements for interstate, intraLATA toll, and 10XXX dialing requirements for new customers who do not select an intraLATA toll service provider.

I. AVAILABILITY OF DIALING PARITY.

Several parties have suggested changes to the dialing parity requirements. On the one hand, Ameritech has requested (p. 3) that dialing parity be made available only to providers of both exchange and toll services, and RTC has suggested (p. 2) that LECs should not be required to implement dialing parity unless they have received a *bona fide* request. On the other hand, AT&T has urged (p. 2) that the date for dialing parity implementation by non-BOC LECs be advanced to January 1, 1997. Each of these petitions should be denied.

Ameritech's petition to limit dialing parity only to CLECs which provide both exchange and toll service should be rejected outright. Its interpretation of Section 251(b)(3) is unreasonably limiting and inconsistent with the clear overall intent of the statute to foster competition in all telecommunications markets. Section 251(b)(3) is more properly read as imposing the duty to provide dialing parity to providers of exchange service *as well as* to providers of toll service. Dialing parity is a key competitive element for both the exchange and toll services mar-

kets. It is entirely possible that some carriers will choose to provide only exchange service, and others will choose to provide only toll service, at least for a time; withholding dialing parity from such carriers, as proposed by Ameritech, would place them at a serious disadvantage and would severely limit the development of competition in their respective markets.

Another LEC entity, the Rural Telephone Coalition, has proposed (p. 2) that toll dialing parity requirements should not be imposed on rural telephone companies until they receive a *bona fide* request. Sprint agrees that if there is no demand for dialing parity, particularly in remote and sparsely populated exchanges, it makes little sense to expend the resources to deploy dialing parity technology. However, in these situations, the appropriate procedure is for the telephone company to request a waiver of the rules. This process is not overly burdensome administratively, provides the Commission and interested parties with the opportunity to evaluate the reasonableness of the waiver request.

While Sprint appreciates the importance of prompt implementation of dialing parity for intraLATA toll, it would be impossible to meet AT&T's proposed January 1, 1997 date. To begin with, it is not clear that the Commission will even have acted on the instant petitions for reconsideration by January 1. Moreover, while it is true that 2-PIC presubscription software is widely available, it has not yet been deployed in all of the Sprint LECs' switches. Work plans have already been developed assuming the August 8, 1997 implementation deadline, and the Commission

should bear in mind that many of the personnel involved in deploying toll dialing parity technology are also involved in local number portability deployment efforts. Accelerating the pace of dialing parity deployment could jeopardize the local number portability deployment schedule.

II. NONDISCRIMINATORY ACCESS REQUIRES THAT AN ILEC PROVIDE CLECs WITH SERVICE AND FACILITIES EQUAL TO THAT WHICH THE ILEC ITSELF OBTAINS.

In the *Second Report and Order* (¶101), the Commission interpreted the "nondiscriminatory access" clause of Section 251(b)(3) as requiring that "a LEC that provides telephone numbers, operator services, directory assistance, and/or directory listings...must permit competing providers to have access to those services that is at least equal in quality to the access that the LEC provides to itself." Ameritech has challenged this interpretation, asserting that Section 251(b)(3) simply requires nondiscriminatory access "as among other carriers" (p. 10).

Ameritech's proposed interpretation has already been considered and dismissed by the Commission.[1] Ameritech has raised no new arguments which would justify reconsideration, and its proposed interpretation should be rejected for the reasons already enunciated by the Commission.

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[1] See *Second Report and Order*, ¶¶99 (noting that Ameritech's interpretation would allow it to provide clearly inferior access, so long as equally bad access were provided to all of Ameritech's competitors) and 101-102 ("Any standard that would allow a LEC to permit access that is inferior to the quality of access enjoyed by that LEC itself is not consistent with Congress' goal to establish a pro-competitive policy framework.").

III. CLARIFICATION OF INTRALATA TOLL REQUIREMENTS IS WARRANTED.

Several parties have requested clarification on two issues relating to intraLATA toll calling: dialing parity requirements for interstate, intraLATA toll (Section 51.209(a) of the Rules);[2] and presubscription rules for customers who do not explicitly select a primary intraLATA toll provider (Section 51.209(c) of the Rules).[3] As discussed briefly below, clarification on both of these issues is warranted.

Section 51.209(a) specifies that "[w]hen a single LATA covers more than one state, the LEC shall use the [dialing parity] implementation procedures that each state has approved for the LEC within that state's borders." SBC has suggested (p. 9) that the correct interpretation of this rule is that "the procedures to be followed will be those applicable to the state in which 'dial tone' is provided." Sprint agrees. This interpretation is straight-forward, avoids potential jurisdictional conflicts, and allows customers to enjoy the benefits of aggressive state action on dialing parity as soon as possible.

In contrast, BellSouth has suggested that no intraLATA presubscription be required until both states involved have mandated such action. This interpretation delays the benefits of presubscription and frustrates the pro-competitive efforts of the state with the more accelerated presubscription schedule. Therefore, BellSouth's interpretation should be rejected.

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[2] *See, e.g.*, MCI, p. 1; BellSouth, p. 6; and SBC, p. 9.

[3] *See, e.g.*, SBC, p. 3; GTE, p. 4; USTA, p. 7; Nynex, p. 6.

Section 51.209(c) specifies that a LEC may not automatically assign a customer's intraLATA toll traffic "to itself, to its subsidiaries or affiliates, to the customer's presubscribed interLATA or interstate toll carrier, or to any other carrier...." New customers who do not affirmatively select an intraLATA toll or intrastate toll provider must dial an access code to place intraLATA and intrastate toll calls.

The text of the order (¶81) makes clear that this rule and the access code requirement apply to new customers who do not affirmatively select an intraLATA toll provider, and that existing customers who do not select another intraLATA toll provider may be presumed to have chosen to stay with their existing intraLATA toll provider. Sprint does not oppose petitions which request that Section 51.209(c) be clarified to be explicitly consistent with paragraph 81 of the Order.

Sprint does, however, oppose Nynex's suggestion (p. 6) that the Commission "allow State commissions to decide whether a LEC may default new customers to itself after customers have been notified of the existence of alternative carrier choices." As the Commission correctly noted (*Second Report and Order*, ¶81), "notwithstanding our decision to entrust the issues of consumer notification and carrier selection to the states, we emphasize that all telecommunications carriers remain subject to the requirements of section 258...." All carriers should abide by consistent rules regarding interstate presubscription, established by the Commission, and Nynex has failed to demonstrate why consistency in this instance should be overturned. Requiring

non-selecting consumers to dial an access code to place interstate, intraLATA toll calls provides strong inducement for them to make an affirmative carrier selection, and does not give a competitive advantage to either the LEC or the IXC.

IV. THE PRECONDITIONS FOR ALLOWING NPA OVERLAYS SHOULD BE EXPANDED TO INCLUDE AVAILABILITY OF PERMANENT LOCAL NUMBER PORTABILITY.

In the *Second Report and Order* (¶286), the Commission decided that all-services NPA overlays would be allowed only if, among other things, the plan involved mandatory 10-digit local dialing by customers between and within the area codes in the area covered by the new code.[4] Several parties have requested that in addition to these requirements, overlays be allowed only after a permanent local number portability solution has been implemented.[5] Several other parties have requested that the 10-digit dialing requirement be removed.[6]

Sprint agrees that permanent local number portability should be available before NPA overlays are allowed. As petitioners pointed out, the one NXX per NPA will enable CLECs to serve only a single rate center in the preferred, existing NPA, while the ILEC will be able to assign numbers from the existing NPA across

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[4] In addition, overlays are allowed only if every existing telecommunications carrier authorized to provide service in the affected area code has available to it at least one NXX in the existing area code 90 days before the introduction of a new overlay area code.

[5] *See, e.g.*, AT&T, p. 8; MFS, p. 2; Teleport, p. 3; Cox, p. 2.

[6] *See, e.g.*, Nynex, p. 13; NY PSC, p. 2; Pennsylvania PUC, p. 5.

the entire area. The competitive imbalances associated with such a situation are offset to a large degree if ILEC customers are able to port their numbers to the CLEC.

If NPA overlays are to be allowed, the Commission should retain its requirement regarding mandatory 10-digit dialing. Sprint recognizes that 10-digit dialing will entail a certain amount of customer reeducation and inconvenience, and believes that such problems are best avoided by implementing geographic splits rather than NPA overlays. However, to the extent that NPA overlays are used, mandatory 10-digit dialing is necessary to eliminate local dialing disparity (*Second Report and Order*, ¶287). Customers will become accustomed to such a dialing plan, and a consistent dialing plan should will help clear up customer confusion as to which calls are local and which are toll.[7]

V. NUMBERING ADMINISTRATION COSTS SHOULD NOT BE ALLOCATED ON THE BASIS OF GROSS RETAIL REVENUES.

The Commission required that all telecommunications carriers contribute to the costs of numbering administration based upon their gross telecommunications revenues less expenditures for telecommunications services and facilities paid to other telecommunications carriers (*Second Report and Order*, ¶343). Several parties have urged reconsideration of the allocation basis used to apportion numbering administration costs.[8]

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[7] Some customers may mistakenly believe that placing a call to a number in the overlay NPA constitutes a toll call.

[8] *See, e.g.*, BellSouth, p. 7 (retail revenues less payments made and received); Nynex, p. 2 (retail revenues); SBC, p. 19 (elemental access lines); USTA, p. 5 (gross retail revenues).

To the extent that the Commission decides to use a revenue-based allocator, it should reaffirm that such allocator should be net of payments to other carriers,[9] and not, as certain LECs have proposed, retail revenues. Numbering resources are essential to the provision of all services, not just retail services, and carriers which earn revenues from the provision of telecommunications services to other carriers should reasonably be expected to bear a portion of numbering administration costs related to these services provided to other carriers.

Moreover, use of gross telecommunications revenues net of payments to other telecommunications carriers to allocate numbering administration costs does not discriminate against incumbent LECs. As the Joint Board recently stated in recommending that contributions to universal service mechanisms be based on this same allocator:[10]

> Non-LEC carriers will make contributions based on the value of the services that they add to the PSTN, measured in terms of gross telecommunications revenues net of payments to other carriers. LECs will also make contributions based on the value of the services that they add to the PSTN. If the value of ILEC-added services generally equates to their gross revenues, this is not inequitable or discriminatory, because all contributing carriers will base their contributions in the same manner.

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[9] As the Commission explained in the *Second Report and Order* (¶343), payments to other telecommunications service providers should be subtracted from a carrier's gross revenues to avoid double-counting.

[10] *In the Matter of Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, *Recommended Decision* released November 8, 1996, FCC 96J-3, ¶809.

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November 20, 1996

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of November, 1996 a true copy of the "Comments on Petitions for Reconsideration" was sent via first-class mail, postage-prepaid, or hand delivered to the following parties listed below.

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